IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION NO. 135 OF 2004.

STATE
Through Public Prosecutor,
High Court of Bombay at Panaji,
Panaji, Goa. .....
Applicant/Appellant.

Versus

1. Pandurang s/o Harichandra
Toraskar, r/o House No.1237/1,
Painawada, Tivim, Bardez,
Goa.

2. Gurudas s/o Pandurang
Toraskar,
r/o House No.1237/1, Painawada,
Tivim, Bardez, Goa. ....
Respondents/Original
Accused.

Mr. S.N. Sardessai, Public Prosecutor for the State/Applicant.

Mr. A.R.Kantak , Advocate for the Respondents.

CORAM: N. A. BRITTO, J.

DATE: 23rd SEPTEMBER, 2004 .

ORAL ORDER:

The State seeks leave to condone the delay of six days in filing its application for leave to file appeal.

2. Heard Shri S.N. Sardessai, the learned P.P. and Shri A.R. Kantak, the learned Advocate for the respondents/accused.

3. The Judgment and Order acquitting the accused was passed on 31.12.2003 by the learned J.M.F.C., Bicholim and a certified copy of the same was applied on the same day and the copy was delivered on 31.1.2004. In support of the application, the Police Inspector of Mapusa Police Station has filed his affidavit and he has filed an Annexure showing the movement of the file from the date the certified copy was collected till 28.4.2004, when the case was allotted to the Public Prosecutor for the purpose of filing the appeal.

4. As already stated, there has been a delay of only six days. The Supreme Court in the case of **State of Haryana v. Chandra Kani and Others [(1996) 3** S.C.C. **132]** has stated that the State cannot be equated with private individuals when it comes to matter of condonation of delay. The Supreme Court has further stated that the delay in filing appeals by the State, their case should be considered with pragmatism in justice-oriented manner and a certain amount of latitude within reasonable limits is permissible having regard to impersonal bureaucratic set-up involving red-tapism. Considering the delay of six days which might have been caused due to impersonal attitude in moving the file quickly, this would certainly be a fit case to condone the delay of six days.

Hence delay is condoned.

sl. **N. A. BRITTO, J.**

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